IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

WP(C).No. 30684 of 2007(C)

PETITIONERS:
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1. BANKARA SWAMY NAIDU, S/O.LATE S.KRISHNA SWAMY NAIDU, PADMMAVILASAM, PALARIVATTOM, ERNAKULAM, KOCHI-25.

2. T.SASEENDRAKUMAR (KOMALAN), S/O.LATE THANKAPPAN NAIDU, PADMAVILASAM, PALARIVATTOM, ERNAKULAM, KOCHI-25.

BY ADV. SRI.K.REGHU KOTTAPPURAM

RESPONDENTS:
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1. THE SUB INSPECTOR OF POLICE, PALARIVATTOM POLICE STATION, ERNAKULAM.

2. THE CIRCLE INSPECTOR OF POLICE, CUSBA POLICE STATION, ERNAKULAM.

3. LATHAN, PATTARUMADATHIL, ANAMUKKU, THUTHIYOOR, KAKKANAD WEST P.O., ERNAKULAM.

4. PUSHPAN, NELLIPARAMBIL HOUSE, MANAYIL LANE, PALACHUVADU ROAD, KAKKANAD WEST P.O., ERNAKULAM.

BY ADV. SRI.G.SHRIKUMAR
SRI.SREEJITH S.NAIR
GOVERNMENT PLEADER SRI. P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 30684/2007 C

APPENDIX

PETITIONER'S EXHIBITS,

EXT.P1. COPY OF THE WILL DT. 30/12/95.

EXT.P2. COPY OF THE LETTER OF CONSENT.

EXT.P3. COPY OF THE ELECTORAL IDENTITY CARD ISSUED TO THE P1.

EXT.P4. COPY OF THE ELECTORAL IDENTITY CARD ISSUED TO P2.

EXT.P5. COPY OF THE BUSINESS LICENCE DT. 23/11/01.

EXT.P6. COPY OF THE PETITION DT. 14/10/07.

RESPONDENT'S EXHIBITS NIL.

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K.BALAKRISHNAN NAIR & T.R.RAMACHANDRAN NAIR, JJ.

Writ Petition (C) No.30684 of 2007-C

Judgment

Balakrishnan Nair, J.

The first petitioner is the son and the second petitioner is the son-in-law of late Krishna Swamy Naidu. Late Krishna Swamy Naidu was the owner of 12.617 cents of land. Before his death, he had executed Ext.P1 will, it is submitted. Even when he was alive, the first petitioner was residing in the residential building in that plot of land and the second petitioner was doing business in a shop room located in the said plot of land.

2. The petitioners submit, respondents 3 and 4, who are the sons-in-law of late Krishna Swamy Naidu, along with others, came to the shop room on 14.10.2007 and threatened them. Because of the intervention of the neighbouring shop keepers, no untoward incidents happened. So, the petitioners filed Ext.P6 representation before the Police, mentioning about the said incident. But, no action was taken on the said representation. Therefore, this Writ Petition is filed, seeking the following reliefs :

"i. issue a writ of mandamus commanding respondents 1 and 2 to provide adequate and sufficient police protection to the lives and personal properties of the petitioners without it being endangered in the hands of respondents 3 and 4 and others behind them.

ii. issue a writ of mandamus commanding respondents 1 and 2 to register a crime against respondents 3 and 4 and charge sheet them in connection with their criminal activities in the premises of the petitioners against the petitioners and their family members on 14.10.2007, to which the nearby shop keepers were witnesses."

3. Respondents 3 and 4 have filed a counter affidavit, denying the allegations against them, including those made in Ext.P6. They approached the petitioners on 14.10.2007, seeking partition of the property. The allegations in Ext.P6 are made only for the purpose of getting some orders from this Court, it is submitted. The learned Government Pleader upon instruction submitted that an enquiry was held into the allegations contained in Ext.P6 and it was found that there was only some exchange of words between the parties. The

other allegations were found incorrect. The Police, therefore, held a meeting of the parties on 19.10.2007, it is submitted.

4. Heard learned counsel on both sides. This is a family dispute, which cannot be solved by the assistance of the Police. The Police cannot be asked to interfere in favour of one party or the other. According to the Police and the party respondents, the allegation of threat to the life of the petitioners, is made without any basis. We feel that this Court is not justified in ordering any protection to the petitioners so as to tilt the balance in the civil dispute. But, this will not affect the powers of the Police to take action in accordance with law, if any information regarding cognizable offence is received. The Writ Petition is dismissed with the above observations.

K.BALAKRISHNAN NAIR,JUDGE

06.11.2007 **T.R.RAMACHANDRAN NAIR, JUDGE**

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